

SECTION-BY-SECTION ANALYSIS OF THE "FOREIGN GIFTS  
AND DECORATIONS ACT OF 1959"

1. Title. Section 1 provides a title for the bill.

2. Persons Covered. The bill would apply to any person who is appointed to a position in the Executive branch or is a member of the armed forces, that is, to employees as well as to officers. The bill would not apply to the President or to the Vice President, since they are elected rather than appointed. Nor would the bill apply to persons within the Legislative or Judicial branches.

The bill would apply to a gift or decoration tendered by a foreign official for allegedly "personal" reasons, as well as one tendered in an official capacity. Except under circumstances where a gift or decoration given to an immediate family member of a person covered by the bill is in reality or in effect given to the person himself, the bill does not cover a gift or decoration to a member of a family. It is contemplated that the Executive branch will promulgate regulations to the extent permitted by law with respect to acceptance of gifts by such immediate family members.

3. Standards for Receipt of Gifts and Decorations. The bill would prohibit the receipt of a gift or decoration except when refusal or return of the item would be likely to cause offense or embarrassment that would adversely affect the foreign relations of the United States. (An exception to this rule is made with respect to any decoration tendered in recognition of active field service in times of combat operations or of personal heroism. Such a decoration may be received even in cases where refusal or return would not be likely to cause offense.) The judgment as to whether refusal or return would cause offense of this nature is made initially by the intended donee. This judgment is subject to review by the recipient's superior officer or an interagency Gifts and Decorations Board, either of whom may refuse to authorize retention of the gift or decoration if of the view that receipt was not warranted.

Prohibition on Acceptance. The bill would prohibit a person from requesting or otherwise encouraging the tender of a gift or decoration tendered under circumstances indicating an intent to influence him in the performance of his duties, provide for a report to the Secretary of State, or his designee, of any such incident, and authorize the Secretary to return or to dispose of the item.

4. Retention of Trivial Gifts. The bill would permit a gift which has been properly received and which possesses no substantial intrinsic or resale value to be retained following a prompt report of such receipt to a superior officer and the superior officer's determination that retention is appropriate under these standards. It is

contemplated

contemplated that regulations will be issued limiting <sup>retention</sup> ~~return~~ in such cases to gifts of a value less than a given nominal amount, such as \$25. The superior officer must report to the head of his department or agency, or his designee, a determination that a recipient may keep a gift. This will allow executive scrutiny of such determinations.

5. Retention of Decorations Tendered in Recognition of Field Services or Personal Heroism. The bill would permit a decoration which has been tendered in recognition of active field service in times of combat operations or personal heroism to be retained following a prompt report of its receipt to the head of the recipient's department or agency, or his designee, and that officer's determination that the decoration was in fact tendered for one of these reasons and that its retention is not objectionable on other grounds.

6. Retention of Other Gifts and Decorations. The bill would provide that any gift which has more than a minimal value or any decoration which is tendered for reasons other than in recognition of active field service in times of combat operations or personal heroism must be promptly deposited with the Secretary of State or such depository as he may designate. Such a gift or decoration may be returned to the recipient or his legal representative for retention only pursuant to a determination by an interagency Gifts and Decorations Board that there is no objection to such return and retention. The Board is to be composed of experienced Government officials representing those departments and agencies most frequently concerned with this type of problem. The bill directs the Secretary of State to establish procedures for the Board and standards for its guidance but requires the Board to take into consideration the propriety of receipt of a gift or decoration, and the likelihood that its retention might influence the recipient in the performance of his duties or constitute an added payment for the performance of such duties. The Board may in its discretion defer its determination as to any gift or decoration and order the item held in custody. It may wish to do this in cases where it feels return of an item to a person on active duty is inappropriate, but that there will be no objection to return at such time as the recipient retires from or terminates his employment relationship with the United States, or dies. It is contemplated that the Board will maintain close liaison with the Department of Justice in order to minimize the possibility of the interposition of a favorable determination by the Board as a defense in a criminal prosecution under such criminal provisions as those at 18 U.S.C. §§ 202, 281, and 1914.

7. Reports to Congress. The bill would require the Secretary of State to furnish to Congress at the beginning of each regular session a full report of those gifts and decorations whose return has been authorized. It is further provided that actual return is not to take place until 60 calendar days have elapsed, thus providing a reasonable period for congressional scrutiny of the report.

8. Display of Decorations. The bill would provide that any decoration retained by or returned to the recipient in accordance with the above provisions may be worn or displayed.

9. Disposition of Gifts Not Returned to the Recipient. The bill would provide that where the Gifts and Decorations Board finds that there is an objection to the return of a gift to the intended recipient, such gift will be considered to have been accepted on behalf of the United States. The Secretary of State is authorized to make such gift available to a department or agency of the United States, as appropriate, or to sell it.

10. Gifts and Decorations Deposited Before Enactment. The bill would provide that gifts and decorations held by the Department of State at the time of the bill's enactment, and those subsequently deposited, shall be treated alike.

11. Regulations. The bill would provide that rules and regulations to carry out its purposes may be prescribed by or under the authority of the President.

12. Amendments. Section 12 would provide for the necessary amendments to existing provisions of law.